

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

RICHARD DOUGLAS MURRAY, SR.,

Plaintiff,

v.

**CIVIL ACTION NO. 3:04CV-103
(BROADWATER)**

**EDWARD J. RUDLOFF, Administrator,
Eastern Regional Jail; JAMES RUBENSTEIN,
Commissioner, Division of Corrections;
BARBRA WHITE, Nursing Director, Prime Care
Medical; and GLEN STOTLER, President,
Morgan County Commission;**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated August 26, 2005. On September 8, 2005, the plaintiff filed a document styled "Plaintiffs [sic] Objection to Magistrates [sic] Recommendation and Motion for Extension of Time to Answer" requesting an additional 30 days to file more substantive objections to the Magistrate Judge's Report and Recommendation. Pursuant to 28 U.S.C. § 636, this court has conducted a *de novo* review of the matter. Based on the reasons put forth in the Report and Recommendation and stated below, the court is of the opinion that plaintiff's Motion for Extension of Time should be and is hereby **ORDERED** denied, and the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

United States Magistrate Judge Seibert originally entered a Report and Recommendation in this matter on July 29, 2005 at which time he recommended the defendants' pending motions to

dismiss and motions for summary judgment be granted. On August 15, 2005, the plaintiff filed his objections to the Report. However, the August 15, 2005 filing contained no substantive objections to the Report, but rather, plaintiff informed the court he was preparing certain other documents to be filed with the court at a later date. Plaintiff then filed two motions to amend his original complaint.

On August 26, 2005, Magistrate Judge Seibert issued another Report and Recommendation, addressing the plaintiff's Motions to Amend filed August 15, 2005 and once again, addressing the merits of defendants' pending motions to dismiss and motions for summary judgment. It is to this August 26, 2005 Report that plaintiff filed an "objection" which is truly a motion for an extension of time to file objections (Docket #39-1). The court now denies plaintiff's motion for additional time in which to file objections, finding that as Magistrate Judge Seibert's July 29, 2005 Report addressed the merits of defendants' motions, the plaintiff has, in actuality, had from that date to file substantive objections to the reasoning put forth in the Report and has failed to do so.

The Court further **ORDERS**

- 1) Magistrate Judge Seibert's Report and Recommendation (**Docket # 38**) is hereby **ADOPTED**;
- 2) Plaintiff's Motion for Extension of Time (**Docket # 39**) is **DENIED**;
- 2) Defendant James Rubenstein's Motion to Dismiss (**Docket # 5**) is **GRANTED**;
- 3) Defendant Edward J. Rudloff's Motion to Dismiss (**Docket # 12**) is **GRANTED**;
- 4) Defendant Glenn Stotler's Motion to Dismiss or in the Alternative Motion for Summary Judgment (**Docket # 14**) is **GRANTED**;
- 5) Defendant Barbara White's Motion to Dismiss (**Docket # 19**) is **GRANTED**;
- 6) Plaintiff's Motion to Amend Complaint (**Docket # 36**) as to Dr. Hoffman is

DENIED;

- 7) Plaintiff's Motion to Amend Complaint (**Docket # 37**) as to Debra McLaughlin is **DENIED** and
- 8) plaintiff's Complaint be **DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this **20th** day of September 2005.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE